

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6034**

**BILL NUMBER: SB 104**

**DATE PREPARED:** Feb 26, 2001

**BILL AMENDED:** Feb 26, 2001

**SUBJECT:** Right to Pauper Counsel in Civil Actions.

**FISCAL ANALYST:** Mark Goodpaster

**PHONE NUMBER:** 232-9852

**FUNDS AFFECTED:**      **GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** Local

**Summary of Legislation:** (Amended) This bill eliminates the general duty of a court to provide an attorney for an indigent person in a civil action. It establishes a Civil Indigent Counsel Defense Fund for each court. It gives a court the discretion to appoint an attorney for an indigent person in a civil action if funds are available in the Court's Civil Indigent Counsel Defense Fund. It establishes procedures for the appropriation of money to a Civil Indigent Counsel Defense Fund.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) Under current law, the courts are required to appoint legal counsel for any litigant in a civil proceeding who the court determines to be indigent. Under this bill, the courts would no longer be required to appoint indigent counsel for all civil cases involving indigent litigants. However, courts would remain obliged to appoint counsel for indigent persons in the following civil proceedings:

IC 12-10-3-22 (Hearing to determine whether an endangered adult should be required to receive protective services)

IC 12-20-15-6 (Duty to inform person of availability of free legal counsel for appeal of denial or reduction of poor relief)

IC 16-39-3-5 (Proceeding to release mental health records of patient committed to mental health

facility)

IC 16-41-9-2 (Proceeding to place restrictions upon an individual who has been diagnosed as having a communicable disease or other disease that is a danger to health)

IC 29-3-2-3 (Appointment of guardian ad litem in proceedings involving a minor or incapacitated person)

IC 31-32-4-2; IC 31-37-12-3 (Child in a proceeding to adjudicate a child as a delinquent child)

31-32-4-3 (Parent in a proceeding to terminate a parent-child relationship)

This bill will save counties an indeterminable amount of money by no longer requiring the courts to appoint their public defender staff or hire outside counsel to represent indigent litigants in civil cases. For example, some courts are reportedly using public defenders to represent indigent parties in divorce cases and certain noncriminal cases.

The amount of money that courts are currently spending on legal services for indigent persons in civil cases is not reported. The 1999 Judicial Report shows that trial courts appointed pauper counsel in 87,870 cases. Of these cases, 1,993 cases, or 2.3%, were for cases other than criminal, juvenile, post conviction relief, or criminal appeals. These cases could include, but are not limited to, divorces, mental health competency hearings, probation revocations, and termination of parental rights. For CY 1999, the courts spent \$24 M for public defender staff, pauper attorney case by case, and other indigent expenses. If the courts spent 2.3% of its indigent defense budget for these other cases, then the estimated cost of legal representation for these types of cases would be \$650,000. The savings from this bill are indeterminable.

**Explanation of Local Revenues:**

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts

**Information Sources:** Larry Landis, Indiana Public Defender Council, Hon. Roland Chamblee, St. Joseph Superior Court, Hon. Thomas Hunt, Grant Circuit Court, 1999 Indiana Judicial Report.